

*(was not sent out)*

DIRECTOR OF CENTRAL INTELLIGENCE  
**Security Committee**

DCI/IC 77-1902/1  
31 January 1977

MEMORANDUM FOR: Admiral Daniel J. Murphy, USN  
Deputy to the DCI for the Intelligence  
Community

FROM

:

Chairman

STAT

SUBJECT

:

Implementation of Section 7(a) of Executive  
Order 11905, Nondisclosure Agreements

1. This memorandum contains a recommendation for your consideration for implementing Section 7(a) of E.O. 11905, which requires the execution of nondisclosure agreements by members of the Executive Branch and its contractors given access to intelligence sources and methods information.

2. To summarize past actions on this matter, the DCI Security Committee reached a consensus on the minimum requirements for this secrecy agreement, but could not agree to the scope of material to be covered. A draft DCID was sent to the DCI on 19 May 1976 requesting approval to circulate to NFIB members for vote sheet action.

3. The vote sheet actions reflected DIA concurring if the DCID were amended to refer only to classified sources and methods. NSA evidenced some concern over an inadequate legal basis for prosecution, lack of consideration given to COMINT, and lack of definition of sources and methods. Treasury evidenced concern regarding the enforcement of these nondisclosure agreements, particularly against those persons for whom such agreements were not made a condition of appointment to their present positions.

4. This was remanded to the DCI Security Committee in June 1976 for an attempt at resolving these differences. The DCID was revised in order to resolve some of the areas of concern. The scope of the DCID on the sources and methods issue remained unresolved. OGC/CIA was asked for a legal opinion. Their comments were received, and on 16 August 1976 a revised draft DCID was forwarded to you recommending approval to place it on an NFIB agenda. You elected not to send this to the NFIB, but rather to chair a meeting of Community lawyers in an attempt to reach a satisfactory solution.

5. On 26 August 1976, you chaired a meeting of legal representatives from NSA, CIA, State and DIA. Since this group could not resolve the classified sources and methods issues, it was agreed that this matter would be referred to the Attorney General since it was his Department that would have to prosecute violators.

6. Prior to this happening, however, Mr. Anthony Lapham, CIA General Counsel, took exception to this proposal and asked if he could personally discuss this issue with Mr. Niederlehner, the DoD General Counsel. Over the past several months no agreements have been reached between DoD and CIA.

7. We have now come full cycle and are facing the possibility of a unilateral decision on the part of the DCI, as was, incidentally, recommended in the Security Committee's original proposal in May 1976. I believe we now have several alternatives open to us:

(a) Referral to the Attorney General's office for a reading on the merits of "classified sources and methods" vs "sources and methods";

(b) Referral to NFIB for resolution;

(c) A unilateral decision by the DCI;

(d) Scrap the concept of a DCID and issue a DCI letter requesting each agency to implement Section 7(a) of E.O. 11905.

8. Because of the elapsed time, the cemented diverse opinions, varying internal requirements and handling procedures in the Intelligence Community agencies and departments, not to mention the politicality of the issue, I recommend option 7(d) above. Attached for you signature, if you concur, is a memorandum to the DCI.



STAT

Attachment:  
A/S

DCI/IC 77-1902

MEMORANDUM FOR: Acting Director of Central Intelligence

FROM

:

[REDACTED]  
Deputy to the DCI for the Intelligence  
Community

STAT

SUBJECT

:

Implementation of Section 7(a) of Executive  
Order 11905, Nondisclosure Agreements

1. Attached is a proposed memorandum for your signature to NFIB Principals concerning the implementation of Section 7(a) of Executive Order 11905 which requires the execution of non-disclosure agreements by members of the Executive Branch and its contractors given access to intelligence sources and methods information.

2. In March 1976 the DCI Security Committee was given the task of developing procedures for the implementation of this requirement. A proposed DCID was prepared and forwarded to NFIB in May 1976 for vote sheet action. There were a few areas of disagreement, the major one being whether this agreement should apply to all sources and methods or only classified sources and methods. The DoD agencies maintained that it should apply only to classified sources and methods while CIA and NSA contended that all sources and methods should be so protected.

3. After being remanded to the Security Committee in June 1976, a series of meetings of that committee, meetings of the Community lawyers, one even chaired by me, and other attempts at negotiating a uniform policy have failed. The positions remain the same.

4. There are several options open to us at this time. One being a unilateral action on your part of issuing a contested DCID. I do not recommend this because the arguments on both sides of this issue are persuasive. Perhaps they correctly reflect the Intelligence Community's diverse requirements which mitigate against uniformity in this instance.

5. I believe that too much time has already been expended on this and that the most prudent action would be a memo from you requesting each agency and department to implement Section 7(a) of Executive Order 11905. If you agree, a proposed memorandum is attached for your signature.

Daniel J. Murphy

Attachments:  
As stated

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

UNCLASSIFIED

CONFIDENTIAL

SECRET

### OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Executive Officer		
2	IC Staff		
	7E13		
3			
4			
5			
6			

<input type="checkbox"/> ACTION	<input type="checkbox"/> DIRECT REPLY	<input type="checkbox"/> PREPARE REPLY
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> DISPATCH	<input type="checkbox"/> RECOMMENDATION
<input type="checkbox"/> COMMENT	<input type="checkbox"/> FILE	<input type="checkbox"/> RETURN
<input type="checkbox"/> CONCURRENCE	<input type="checkbox"/> INFORMATION	<input type="checkbox"/> SIGNATURE

**Remarks:**

3/7/77 Returned by Dick Kent.  
 I lighty OGC memo, he feels  
 we should hold package  
 in abeyance. Keep reporting in  
 Issues paper. *[Signature]*

FOLD HERE TO RETURN TO SENDER

FROM: NAME ADDRESS AND PHONE NO.		DATE
	OGC 7D01	3/7/77